September 11, 2000

The Honorable Richard Baker
Chairman
House Banking and Financial Services Committee
Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises
U.S. House of Representatives
434 Cannon House Office Building
Washington, DC 20510

The Honorable Paul Kanjorski
Ranking Member
House Banking and Financial Services Committee
Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises
U.S. House of Representatives
2353 Rayburn House Office Building
Washington, DC 20510

Dear Congressmen Baker and Kanjorski:

On behalf of the 200,000 members of the National Association of Home Builders (NAHB), I am pleased to have the opportunity to provide additional thoughts and recommendations on H.R. 3703, the "Housing Finance Regulatory Improvement Act of 2000." As we stated in our July 20th testimony before the Subcommittee, NAHB shares your desire to ensure a strong, independent, and effective regulatory structure for the housing-related government-sponsored enterprises (GSEs), Fannie Mae, Freddie Mac and the Federal Home Loan Bank System. Further, we support your efforts to facilitate a dialogue on the GSEs through the series of hearings held thus far and the "GSE Roundtable Summit" planned for September. NAHB is very interested in participating in this Summit which we believe will provide a good forum for the open and constructive exchange of ideas and perspectives about the GSEs from a wide range of participants.

NAHB supports the Subcommittee's efforts to assess whether the present regulatory structure for the GSEs is working effectively and efficiently to ensure that these institutions are operating in a safe and sound manner and fulfilling their public missions. We are concerned, however, with several provisions of H.R. 3703, particularly those relating to the regulators' authority and the changes to GSE status. Our fear is that these provisions would disrupt the smooth operation of the United States housing finance system by undermining the ability of the GSEs to provide liquidity and lower-cost financing, ultimately raising the cost of homeownership and rental housing.

At the outset, let me reiterate NAHB's strong opposition to the withdrawal of any of the federal privileges and legal exemptions specified in the GSEs' charters, or any other actions that would dilute the GSE status of these institutions. Specifically, NAHB opposes the provisions of H.R. 3703 that would repeal the GSEs' lines of credit with the Treasury and eliminate super-lien authority for the Federal Home Loan Banks. It is imperative that the GSEs retain all the agency attributes conferred in their charters so as not to interfere with their ability to raise capital at rates that benefit the nation's homeowners and renters. Notwithstanding comments by Department of Treasury officials, we believe that there is a consensus amongst most market participants that these provisions of H.R. 3703 should be taken off the table.

The remainder of my comments will address the regulatory framework for the GSEs. In general, we believe that any regulatory structure for the housing GSEs should meet the following principles:

- ensure that the GSEs are operating in a safe and sound manner;
- encourage the GSEs to focus on affordable housing; and,
- create an environment conducive to innovation, while ensuring that the GSEs are operating within their charters.

NAHB believes that the current regulatory structure is accomplishing these objectives. Nevertheless, NAHB is receptive to proposals that would improve the efficiency of GSE regulation and we are willing to participate in efforts to examine changes to improve the current regulatory system. We do not believe, however, that the changes to the current regulatory structure proposed in H.R. 3703 would in any way improve upon the current system, and in many ways could impede the efficiency of the housing finance system, ultimately raising costs to housing consumers.

NAHB has several concerns with the vision of a single GSE regulator as set forth in H.R. 3703. Above all, we believe the current structure is working very well. Each agency has developed substantial expertise in housing consistent with the distinct and varying missions of Fannie Mae, Freddie Mac and the Federal Home Loan Banks. For example, the Federal Home Loan Bank System has very different statutory authority and purposes, capital standards, and risk management profiles than Fannie Mae and Freddie Mac. Given the separate and distinct functions of the secondary market GSEs, Fannie Mae and Freddie Mac, compared to the Federal Home Loan Banks, we believe that the regulatory regimes for these entities should remain separate. Consolidating regulation of these entities into one regulator would require the creation of two separate regulatory regimes within the same regulatory body and, hence, would not achieve the legislative intent of regulatory efficiency.

Moreover, we are concerned that the proposed composition of the Board would not have the necessary expertise to oversee all the housing GSEs. The new oversight board would consist of five members, including the Secretaries of HUD and Treasury and three presidential appointees. Given the membership of the Board, there could be a danger of politicizing the regulation of the GSEs.

Further, we do not believe that consolidating the regulatory oversight of Fannie Mae and Freddie Mac into a single entity would improve regulatory efficiency. Prior to the 1992 GSE Act, all regulatory authority over Fannie Mae and Freddie Mac was vested in HUD. In the wake of the thrift crisis, concerns about adequate safety and soundness oversight of these GSEs prompted Congress to pass the 1992 GSE Act that created OFHEO as the safety and soundness regulator for the Enterprises and reaffirmed HUD as the program regulator. In so doing, Congress created a positive tension between the mission and safety and soundness oversight of these entities, which has served the housing market extremely well. It has focused the GSEs on their affordable housing mission, while establishing rigorous safety and soundness requirements. Any effort to consolidate these regulatory functions would be a step backward and would not improve on the current regulatory structure.

Finally, we are concerned that the transition to a new regulatory structure could impair important regulatory efforts that are now underway. As we testified, there should be no unnecessary delay in publication of final risk-based capital regulations for the GSEs. Implementation of such capital standards should be the highest priority to ensure the safety and soundness of the housing GSEs. OFHEO is close to finalizing its risk-based capital rule applicable to Fannie Mae and Freddie Mac and work has just begun on revisions to the FHLBank System's capital structure as mandated by last year's Modernization Act. It is important that these rules should be allowed to go forward.

Given the daunting housing challenges before us, NAHB believes that now is not the time to change the framework of the housing finance system. The present GSE regulatory structure is working effectively and efficiently to ensure that these institutions are operating in a safe and sound manner and fulfilling their public mission. We see no need for Congress to act to change this system which has taken more than a half century to develop. Rather than change the regulatory framework, we urge the current GSE regulators to ensure that the GSEs continue to work within their charters and to develop rigorous capital requirements to ensure the safety and soundness of these institutions.

We look forward to continuing to work with the Subcommittee to assess and seek improvements to the regulatory structure for the GSEs. As the process continues, we urge Congress to carefully consider the adverse impacts that any changes to the GSEs' regulatory framework or status could have on the housing finance system and the cost of homeownership and rental housing.

Sincerely,

Robert L. Mitchell
2000 President